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2 #623
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5 BILL NO. Z-96-*1121*

6 ZONING MAP ORDINANCE NO. Z-*Lust*.

7 AN ORDINANCE amending the City of
8 Fort Wayne Zoning Map No. S-14.

9 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

10 SECTION 1. That the area described as follows is hereby designated a B3B (General
11 Business) District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana of
12 1974:

13 Lot Number 80, 141, 142, 143, 144, 160, 161 and 162 in Delta Heights Addition, except for that part
14 taken for Coliseum Blvd street widening.

15 and the symbols of the City of Fort Wayne Zoning Map S-14, as established by Section 157.016 of Title XV of
16 the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

17 SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and
18 approval by the Mayor.

19 *Thomas Hayhurst*
20 Councilmember

21 APPROVED AS TO FORM AND LEGALITY:

22 *J. Timothy McCaulay*
23 J. TIMOTHY McCAULAY, CITY ATTORNEY

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ORIGINAL

ORIGINAL

#623

DIGEST SHEET

TITLE OF ORDINANCE Zoning Map Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE South of Nevada Avenue and on the East Side of North Coliseum Blvd.

2-96-11-21

EFFECT OF PASSAGE Property is currently zoned B-1-B - Limited Business District. Property will become zoned B-3-B - General Business District.

EFFECT OF NON-PASSAGE Property will remain zoned B-1-B - Limited Business District.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE) _____

FACT SHEET

Z-96-11-21

BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Map Amendment		
From B1B to B3B		

DETAILS	POSITIONS	RECOMMENDATIONS
Specific Location and/or Address The 1600 Block of Coliseum Blvd., North, north of Lake Avenue.	Sponsor	City Plan Commission
Reason for Project Automobile reconditioning & sales.	Area Affected	City Wide Other Areas
Discussion (Including relationship to other Council actions) <u>18 November 1996 - Public Hearing</u> (See Attached Minutes of Meeting)	Applicants/ Proponents	Applicant(s) Chen-nan Chen & Mei-Tswan Che City Department Other
<u>25 November 1996 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council with a DO NOT PASS recommendation. Of the seven (7) members present, six (6) voted in favor of the motion, the Chair did not vote. Motion carried. Members Present: Linda Buskirk, Jim Dearing, Ernest Evans, DeDe Hall, Richard Pierce, Thomas Quirk, Dave Ross Members Absent: James Hoch, Carol Kettler Sharp	Opponents	Groups or Individuals Karen Luckett, 1636 Inwood Dr Dan Luckett, 1636 Inwood Dr Basis of Opposition -property values would be diminished by this use
	Staff Recommendation	<input type="checkbox"/> For <input checked="" type="checkbox"/> Against Reason Against -approval would have an adverse impact on the conditions in the area
	Board or Commission Recommendation	By <input type="checkbox"/> For <input checked="" type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
	CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

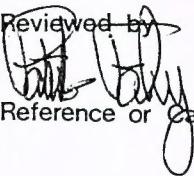
POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start Date October 16, 1996

Projected Completion or Occupancy Date December 2, 1996

Fact Sheet Prepared by
Patricia Biancaniello Date December 2, 1996Reviewed by

Date December 2, 1996

Reference or Case Number

SUMMARIZATION OF THE MINUTES OF THE
FORT WAYNE CITY PLAN COMMISSION

(Public Hearing)

DATE: 18 November 1996

TIME: 7:00 P.M.

LOCATION: Room #126, City-County Building, One Main Street, Fort Wayne, IN

ROLL CALL:

Members Present: Linda Buskirk, Jim Dearing, Ernest Evans, James Hoch, Richard Pierce, Thomas Quirk, Dave Ross, Carol Kettler Sharp

Member Absent: DeDe Hall

Advisory Member Absent: County Plan Commission

Staff Present: Biancaniello, Fahey, O'Brien, Stair, Wright

NEW BUSINESS:

1. Public Hearing on Zoning Map Amendment

- a. Bill No. Z-96-11-21 - Change of Zone #623
From B1B to B3B
The 1600 Block of Coliseum Boulevard North, north of Lake Avenue.

Tom Niezer, attorney, for the petitioners appeared before the Commission. Mr. Niezer stated that he was accompanied by Mr. Roy Wagner, one of the principals of the CICA Corporation. CICA Corporation is the franchise for the JD ByRider operation. Mr. Niezer stated that the applicant owns four JD ByRider franchise operations in the state of Indiana. He stated that if this is rezoned this will be their fifth. He stated that they are looking to locate three franchise operations in the Fort Wayne area. He stated that countrywide there are approximately 90 JD ByRider Dealerships in approximately 24 states. He stated that the franchise operation was started in the mid 1980's. The business operation primarily involves the purchase of automobiles, primarily, not exclusively, at wholesale. The cars are then reconditioned and sold on site, together with providing financing. He handed out and requested that it be made a part of the record some background materials on the JD ByRider franchise in particularly the CICA Corporation. Mr. Niezer stated that the hours of this operation are primarily Monday through Friday from 9am until 7pm and Saturday from 9am until 4pm. He stated that the business is not open on Sundays, nor can it be. The JD ByRider operation usually employs approximately 10 individuals. He stated that this particular property has been owned by Dr. Chen for at least 10 years. He stated that it has been on the market and has been listed with Harding Dahm & Company for the past two years. He stated that they met with the neighbors in the surrounding area last Monday, November 11. He stated that there were 14 individuals present at that meeting, representing 10 lot owners. He stated that these properties are east of Inwood Drive. He stated that the property to the north of their site is all owned by Dr. Chen and he does not have any objection to this proposal. He stated that Dr. Chen also owns the property directly to the south of the site. He felt that the real "heart" of the issue is the properties to the east, which are separated by Inwood Drive. He presented pictures to the Commission of the existing JD ByRider operations. He also had artist renderings of the operation. He stated that there is no intercom system, that you might typically find on a car dealership, primarily due to the fact that the area of land they are talking about is relatively small and there is no need for one. There is lighting which is used to illuminate the parking area and that lighting is very bright. However, that lighting is reduced and turned down once business is closed for the day, and only security lighting is in place. He stated that with respect to adverse lighting conditions that might impact adversely to the east on the surrounding residential neighborhood, he felt that was a non-issue. He stated that with respect to noise, there is no paint booth operation with the reconditioning. He stated that the reconditioning is solely ancillary to the sale of the automobiles. He stated that he could not take his car to this lot and ask for car repair. He stated that there is no retail sales of the reconditioning aspect of the business. He stated that the reconditioning is only done to prepare the automobiles that are later sold on the lot. He stated that at any one time there is approximately 50 to 60 automobiles on site. He stated that typically there are 10 customers per day, who visit the site and there are approximately 30 sales made per month. He stated that this is not a large intensive type of business that generates a

good deal of traffic flow. He stated that this property is subject to a set of restrictive covenants that were put in place when the property was rezoned to B-1-B. He stated that they are asking the Plan Commission and the neighbors to permit them to amend those restrictive covenants. He stated that the covenants set in place a number of development guidelines, with respect to buffering and traffic access and other matters that were put in place in contemplation of a B-1-B use. He stated that with respect to the landscaping covenant the covenants have a 15 foot wide barrier for the east portion of this property. He stated that they are going to conform to that. He stated that they are willing to let Tom Cain, landscape architect with C&ED, review and approve the landscape buffering. He stated that they are proposing a row of pine trees 5 to 7 feet in height, spaced 10 feet apart from one another. He stated that will result in approximately 20 trees within that row. He stated that with respect to the traffic issue the restrictions require them to have their access through a frontage road type concept, coming off of Nevada Avenue. He stated that is what their development plans shows. He stated that given the fact that they will have the majority of their vehicles to the west of the frontage road, they do not anticipate any conflict as is noted in the staff report. He stated that they also do not see any intense traffic usage, given the nature of their business. He stated that as he indicated previously there will be no paint booth operation in the reconditioning facility on the property. The reconditioning facility itself has six bay doors, all which face to the west. He stated that any noise that emanates from that building, is going to emanate toward the west, Coliseum Boulevard. He stated that the building itself is a metal frame building and it is insulated for sound. He stated that he felt they could adequately assure the Plan Commission that there is not going to be noise problems from the site. He stated that he felt the real problem lies in the fact that they are requesting a B3B zoning. He stated that the problem is that if they do not use the property, or if they someday sell the property, there could be a number of other uses that might be more adverse to the neighborhood than what they are proposing. He stated that with respect to that, they have indicated to the neighbors and were indicating for the record, not as an inducement for the rezoning request, but as an inducement to live harmoniously with the neighbors, they are willing to amend the restrictive covenant agreement so that the use under B3B, would be limited solely to the use that is operated by JD ByRider. He stated that in summary they have a use which is a good use. He stated that the staff indicated that there are some positive aspects to the rezoning and they would like to approve the request. He stated he felt the staff felt the B3B designation opens a floodgate to other uses that could potentially be adverse to the neighbors. He stated that he felt that they could and are willing to address that concern. He stated that the current B1 zoning classification allows for a supermarket, hardware store, a liquor store a department store. He stated that a B1B permits a service station, which he felt could conduct more intensive type of body shop and repair work than what they are proposing. He stated that the B1B could permit a tire and accessory store, which he felt was much more intensive than what they are proposing. He stated, he felt, many of the uses currently allowed by the B1B classification by their very nature and character are either more noisy, have longer hours of operation and generate more traffic than the use they are proposing. He stated that after the meeting with the neighbors they had a good feeling that the neighbors are aware that someday this property will be developed, and they would rather have someone go in there who can give them some assurances with respect to their restrictive covenants, in order to make sure that the nature and integrity of their residential area is going to be preserved. He stated that he felt that their application does that.

Wayne O'Brien, Planner II, with C&ED asked Mr. Niezer to define which rendering, of the two he submitted, would be the one that depicted how the property would be developed.

Mr. Niezer stated that there would be two buildings on the property. The one would be the office. The other would be the 6-bay structure where the reconditioning would be done.

Mr. O'Brien also asked if they had made arrangements with the owners of the properties directly north of this site (these properties are not currently developed) for the construction of the frontage road to serve the site.

Mr. Niezer stated that they had. He stated that the properties are owned by Dr. Chen.

Linda Buskirk questioned if they would have access from Inwood or would their only access be from the frontage road.

Mr. Niezer stated that there would be no access from Inwood Drive, pursuant to the restrictive covenant. There only access is limited to Nevada Avenue.

Jim Hoch questioned if they were willing to amend the covenants for this use only.

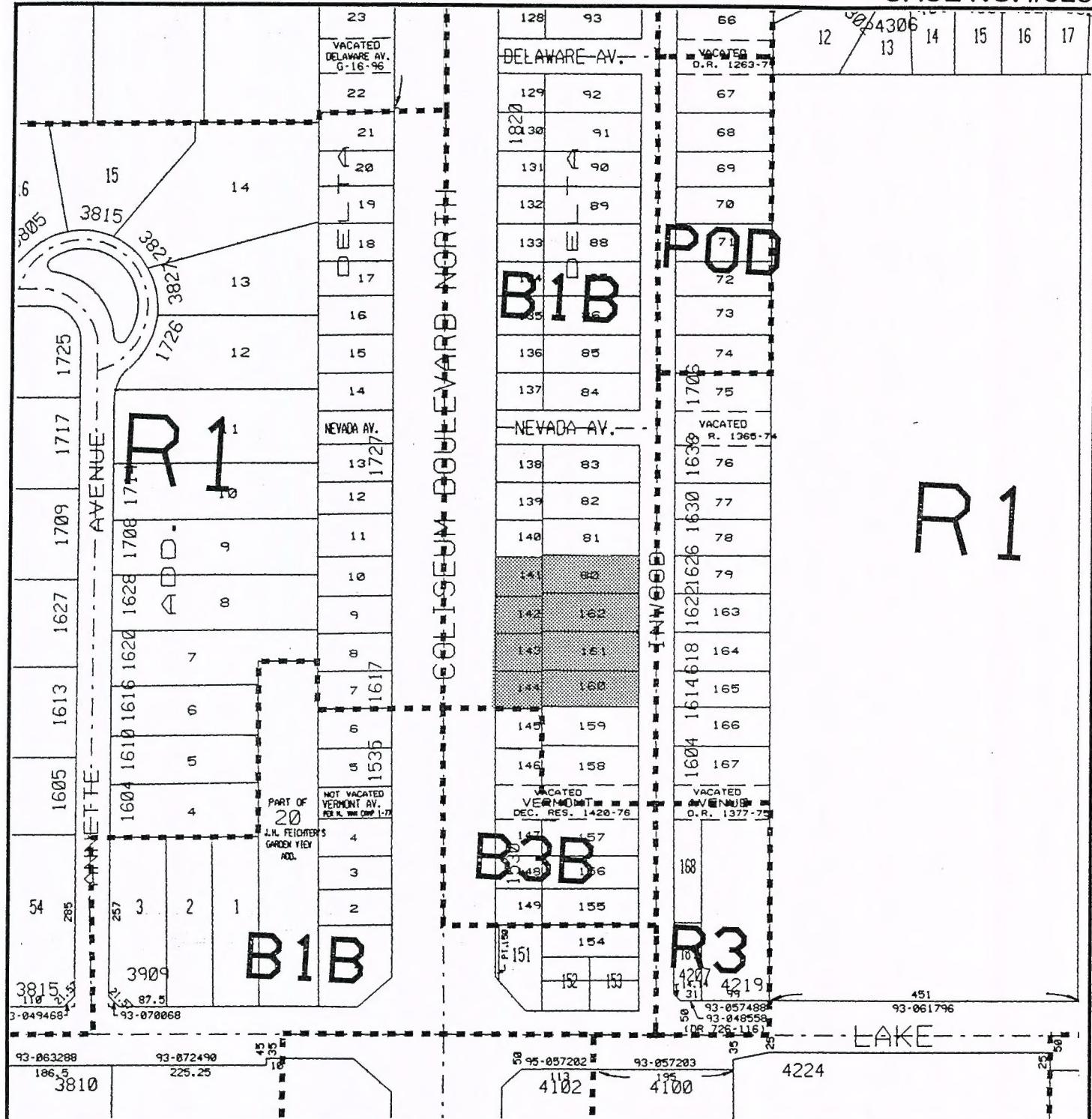
Mr. Niezer stated that they would be willing to do so.

Karen Luckett, 1636 Inwood Drive appeared before the Commission in opposition to the proposed rezoning. Ms. Luckett stated that her number one concern was the effect that this type of development would have on their property values. She stated that she has spoken to a couple of appraisers and they insinuate that this development would be a detriment

REZONING PETITION

AREA MAP

CASE NO. #623



COUNCILMANIC DISTRICT NO. 1

**Map No. S-14
LW 10-24-96**

to their property value. She stated that they have told her that the value of her property will go down. She stated that she and her husband cannot afford for the value of their property to go down. Ms. Luckett stated that there will still be additional lighting in the area. She stated they already have people who use Inwood Drive as a short cut. She stated that this will only add to the traffic on the street.

Dan Luckett, 1636 Inwood Drive appeared before the Commission in opposition to the rezoning. Mr. Luckett stated that he was at the meeting held by the developers. He stated that the meeting did leave him with a good impression of the business they are proposing. He stated that he felt that if a business goes in on this property it will need a 6 foot high solid wood fence installed along the east property line. He stated that this is a business that has the potential to be a nuisance, i.e. noise, debris, traffic.

In rebuttal, Mr. Niezer stated that they would be happy to engage an appraiser to look at the possibility of property devaluation in the area. He stated that they need to understand what they are appraising. (The type of business that is going in and the protection of the restrictive covenants would need to be taken into consideration when doing an appraisal.) He stated that there is going to be a 6 foot high fence. He stated that the covenants require the fence. He stated that the fence will be to the west of the landscape buffering. There will be a 15 foot landscape buffering and then a 6 foot fence. He stated that this is not a business that will have debris lying about. He stated that there are no outside storage bins for trash. He stated that compared to a restaurant that could go in or even a service station, this site will be "spic-n-span". He stated that it does not generate trash.

Roy Wagner, from North Barrington, Illinois, an investor in the business, appeared before the Commission. Mr. Wagner stated that this is a family business. He stated that his son and son-in-law will be running the business. He stated that the use that they are proposing for the property is better than the existing alternatives. He stated that this is a clean business, there is no refuse and very little noise.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

ADJOURNMENT:

From the desk of:
Pat Biancaniello

AGENT:

Tom Niezer
215 E Berry St
Fort Wayne IN 46802

423-9551

Read the first time in full and on motion by _____
and duly adopted, read the second time by title and referred to the
Committee on _____ (and the City Plan Commission
for recommendation) and Public Hearing to be held after due legal notice, at
the Common Council Council Conference Room 128, City-County Building, Fort
Wayne, Indiana, on _____, the _____ day of _____
M., E.S.T.

DATED: _____

SANDRA E. KENNEDY CITY CLERK

Read the third time in full and on motion by _____
and duly adopted, placed on its passage. ~~PASSED~~ LOST
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	9			
BENDER	✓			
CRAWFORD	✓			
EDMONDS	✓			
HALL	✓			
HAYHURST	✓			
HENRY	✓			
LUNSEY	✓			
RAVINE	✓			
SCHMIDT	✓			

DATED: 12-17-96

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. _____
on the _____ day of _____, 19_____

ATTEST:

(SEAL)

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the _____ day of _____, 19_____
at the hour of _____ o'clock _____ M., E.S.T.

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____
19_____, at the hour of _____ o'clock _____ M., E.S.T.

PAUL HEIMKE, MAYOR



Petition for a Zoning Map Amendment

Community & Economic Development / 1 Main Street Rm #830 / Fort Wayne IN 46802 / (219) 427-1129

I/We

do hereby petition to amend the Zoning Map of the City of Fort Wayne Indiana, by reclassifying from designation

a/an: B1B

to a/an: B3B

designation the property located at the common street address of: Coliseum Boulevard at Nevada

and further described as follows: Lot Number 80, 141, 142, 143, 144, 160, 161, and
162 in Delta Heights Addition, except for that part taken for Coliseum Blvd
Street widening.

(Please attach a legal description if more space is needed.)

The purpose of this rezoning is to permit the use of the property for the following: automobile sales
and service.

Property Owner(s) Name(s): Chen-nan Chen and Mei-Tswan Chen

Street Address: 6106 Groveland Drive

City: Fort Wayne

State: Indiana

Zip Code: 46835

Phone: (219) 486-1319

I/We the undersigned, do hereby certify that I am/We are the owner(s) of more than fifty percent (50%) of the property described in this petition; that I/We agree to abide by all provisions of the Fort Wayne Zoning Ordinance as well as all procedures and policies of the Fort Wayne City Plan Commission as relating to the handling and disposition of this petition; and that the above information is true and accurate to the best of my/our knowledge.

Chen-nan Chen

Signature

Chen-nan Chen

Printed Name

10-16-96

Date

Mei-Tswan Chen

Signature

Mei-Tswan Chen

Printed Name

10-16-96

Date

Signature

Printed Name

Date



Community & Economic Development
Department of Planning / Land Use Management
1 Main Street, Rm 830 - Fort Wayne In 46802
(219) 427-1140

Procedure for filing and processing a zoning map amendment

Filing:

- Petition is to be filed with the original and one (1) copy in the City Plan Commission Office no later than noon on the filing deadline. Schedules of meeting dates and filing deadlines are available in our office.
- Fee: \$300.00
- Petitioner must supply a licensed survey of the property in question. Petitioner must also indicate the current zoning classification and the requested classification. The petition must be signed by the owners of record of over fifty percent (50%) of the land contained in the petition.
- The applicants name, address and telephone number must be included.
- The petition should be typed or printed on the appropriate form. All information must be readable, including any copied material that is submitted.

Processing of petition:

- The petition is placed in ordinance form by the Land Use Management staff and is introduced to Common Council where it receives its first and second readings and is then referred to the Committee on Regulations and the Fort Wayne City Plan Commission for study and recommendation.
- The Fort Wayne City Plan Commission will schedule and hold a public hearing on the proposed ordinance. Filing of the petition grants the City of Fort Wayne permission to post "Official Notice" on the property.
- The Fort Wayne City Plan Commission will review the proposed change at a business meeting one (1) week following the public hearing and will make a recommendation to the Common Council.
- The recommendation will be certified and sent to Common Council within ten days of the Plan Commission's action.
- Upon receipt of the certified recommendation, and the recommendation of the Committee on Regulations, Common Council will act on the ordinance at its third and final reading.
- The ordinance is then presented to the Mayor for his approval and signature.

Notes to the Applicant:

- If additional space is needed for either a legal description, or property owners names addresses and signatures, please attach same to this form.
- All requests and deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice being submitted to the newspaper for publication.
- Filing of this petition grants the City of Fort Wayne permission to post "Official Notice" on the petitioned property. Failure to post, or to maintain posting may prevent the public hearing from being held.
- All checks should be made payable to: CITY OF FORT WAYNE.

Name and Address of preparer, attorney or agent.

Thomas M. Niezer

David R. Steiner

Barrett & McNagny

215 East Berry Street

Fort Wayne, IN 46802

(219) 423-9551

Telephone Number

Receipt #: _____

Date Filed: _____

Map #: _____

Reference #: _____

RESOLUTION OF ZONING MAP AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana on November 12, 1996 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-96-11-21; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on November 18, 1996.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a **DO NOT PASS** recommendation based on the following "Findings of Fact".

- 1) Approval of the request will not be in substantial compliance with the City of Fort Wayne Comprehensive Plan, and could establish an undesirable precedent in the area.

The goal in this area is to maintain investments and prevent deterioration in existing neighborhoods. Uses in the immediate area are residential, low intensity office, and limited retail business. Approval of this higher intensity zoning would potentially hamper investments in the existing housing and office uses.

- 2) Approval of the request will potentially have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area.

Development could have a negative impact on existing residential land uses, and future development in the immediate area. While Coliseum Boulevard has been developed with B-1-B uses, Inwood Drive uses are limited to office and residential. Higher intensity commercial uses could negatively impact property values and quality of life issues.

- 3) Approval is not necessarily consistent with the preservation of property values in the area.

The requested B-3-B zoning would allow a number of repair and service uses that are not necessarily compatible with residential or office uses. It should be noted that no city ordinances exist at this time to require sound or visual buffers between this site and the R-1 zoned parcels east of Inwood Drive.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held November 25, 1996.

Certified and signed this
2nd day of December 1996.



Carol Kettler Sharp
Secretary

BILL NO. Z-96-11-21

REPORT OF THE COMMITTEE ON
REGULATIONS
REBECCA J. RAVINE - THOMAS E. HAYHURST - CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ amending the City of Fort
Wayne Zoning Map No. S-14

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) ~~(RESOLUTION)~~

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Rebecca J. Ravine
Debra Hall
Laura Kennedy
Tom Denny
OSD
John Crump
Jeff AB
Thomas Hayhurst

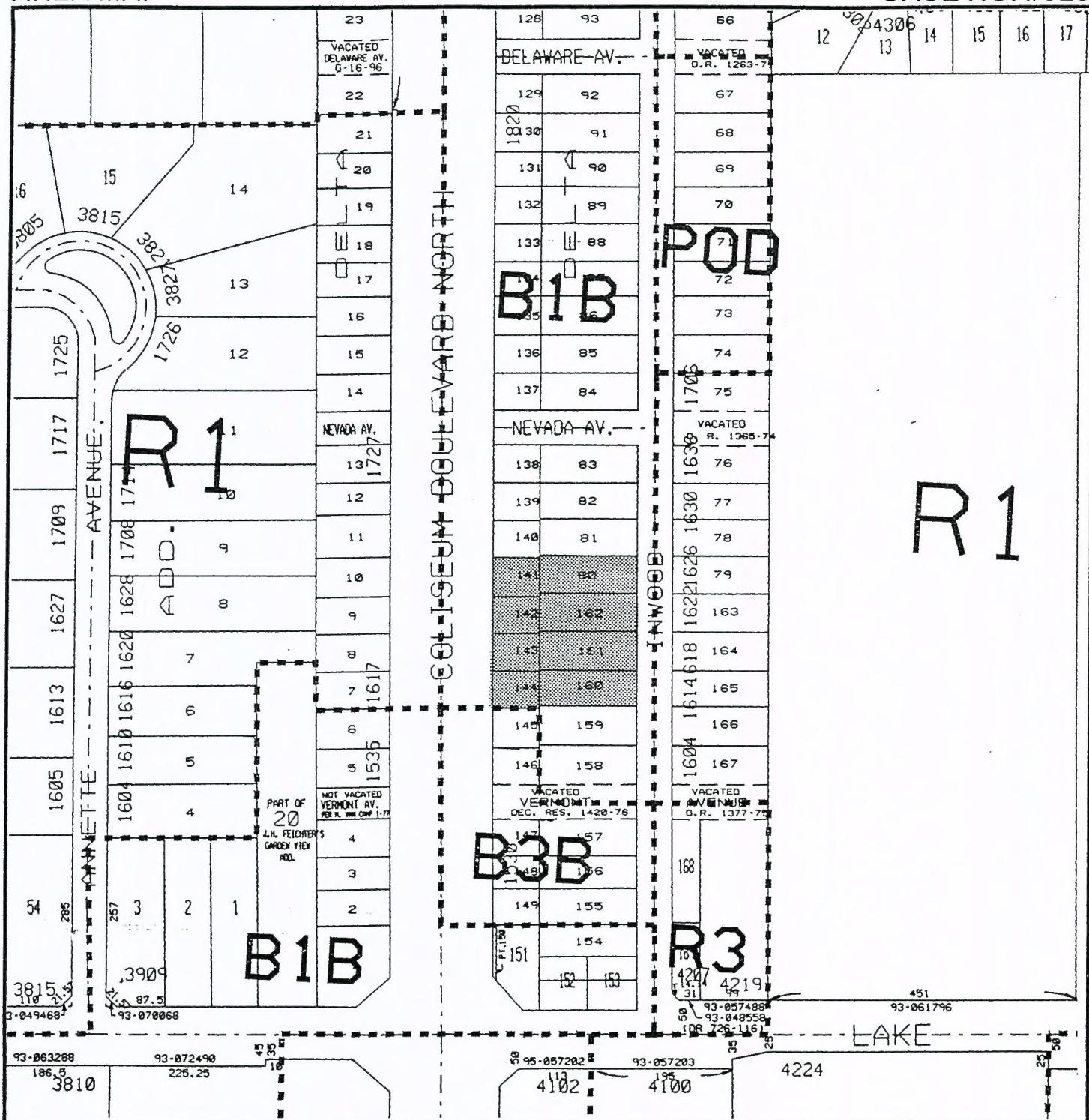
DATED: 12-17-96

Sandra E. Kennedy
City Clerk

REZONING PETITION

AREA MAP

CASE NO. #623



COUNCILMANIC DISTRICT NO. 1

Map No. S-14
LW 10-24-96